

HOUSE BILL NO. 663

INTRODUCED BY M. CAFERRO

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM; REMOVING THE AUTHORITY TO CONDUCT THE PROGRAM THROUGH A CONTRACT WITH AN INSURANCE PLAN, A HEALTH MAINTENANCE ORGANIZATION, OR A MANAGED CARE PLAN; PROVIDING FOR A FEE FOR SERVICE UNDER THE PLAN; AUTHORIZING THE DEPARTMENT TO COLLECT PAYMENTS THAT ARE IMPROPERLY MADE AND TO IMPOSE SANCTIONS ON HEALTH CARE PROVIDERS; AUTHORIZING THE DEPARTMENT TO ESTABLISH A RESERVE ACCOUNT AND LIMITING THE USES OF THE RESERVE ACCOUNT; AMENDING SECTIONS 53-4-1002, 53-4-1007, 53-4-1009, AND 53-4-1010, MCA; AND PROVIDING AN EFFECTIVE DATE, AN APPLICABILITY DATE, AND A CONTINGENT TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-4-1002, MCA, is amended to read:

"53-4-1002. (Temporary) Purpose -- definition. (1) The purpose of this part is to create a program to provide health care to children who are not eligible for health care services under the Montana medicaid program. These health care services may be provided by ~~the payment for health care through an insurance plan, a health maintenance organization, a managed care plan, or~~ direct payment to a health care provider.

(2) As used in ~~53-4-1003 through 53-4-1005 and 53-4-1007 through 53-4-1010~~ this part, "program" means the state children's health insurance program. (Terminates on occurrence of contingency--sec. 15, Ch. 571, L. 1999.)"

Section 2. Section 53-4-1007, MCA, is amended to read:

"53-4-1007. (Temporary) Department may contract for services. (1) The department of public health and human services may contract with ~~insurance companies or~~ other entities to provide services for a set monthly or yearly fee based on the ~~number of participants in the program and the~~ types of services provided or based on a fee for service as established by the department. The contracts must be similar to those used for administering the medicaid program. The department may administer and supervise a vendor payment program

1 for the benefits provided under this part.

2 ~~(2) The department of public health and human services may contract for a health care service based~~
3 ~~on a fee for service when the department does not contract for a health care service through an insurance plan,~~
4 ~~a health maintenance organization, or a managed care plan. The department shall first offer the insurer the~~
5 ~~opportunity to negotiate a contract price prior to purchasing a health care service on a fee-for-service basis.~~

6 (3) (a) The department is entitled to collect from a health care service provider and a provider is liable
7 to the department for:

8 (i) the amount of a payment under this part to which the provider was not entitled, regardless of whether
9 the incorrect payment was the result of department or provider error or other cause; and

10 (ii) the portion of any interim rate payment that exceeds the rate determined retrospectively by the
11 department for the rate period.

12 (b) In addition to the amount of overpayment recoverable under subsection (3)(a), the department is
13 entitled to interest on the amount of the overpayment at the rate specified in 31-1-106 from the date 30 days after
14 the date of mailing of notice of the overpayment by the department to the health care provider, except that
15 interest accrues from the date of the incorrect payment when the payment was obtained by fraud or abuse.

16 (c) The department may collect any amount described in subsection (3)(a) by:

17 (i) withholding current payments to offset the amount due;

18 (ii) applying methods and using a schedule mutually agreeable to the department and the provider; or

19 (iii) any other legal means.

20 (d) The department may suspend payments to a health care provider for disputed items pending
21 resolution of a dispute.

22 (e) The fact that a health care provider may have ceased providing services or items under the
23 children's health insurance program, may no longer be in business, or may no longer operate a facility, practice,
24 or business does not excuse repayment under this subsection (3).

25 (4) The department shall adopt rules establishing a system of sanctions applicable to health care
26 providers who engage in fraud and abuse. The department rules must include but are not limited to
27 specifications regarding the activities and conduct that constitute fraud and abuse.

28 (5) Subject to subsections (6) and (7), the sanctions imposed under rules adopted by the department
29 under subsection (4) may include but are not limited to:

30 (a) required courses of education in the rules governing the medicaid program;

1 (b) suspension of participation in the program for a specified period of time;

2 (c) permanent termination of participation in the program; and

3 (d) imposition of civil monetary penalties imposed under rules that specify the amount of penalties
4 applicable to a specific activity, act, or omission involving intentional or knowing violation of specified standards.

5 (6) In all cases in which the department may recover payments or impose a sanction, a health care
6 provider is entitled to a hearing under the provisions of Title 2, chapter 4, part 6. This section does not require
7 that the hearing under Title 2, chapter 4, part 6, be granted prior to recovery of overpayment.

8 (7) The remedies provided by this section are separate and cumulative to any other administrative, civil,
9 or criminal remedies available under state or federal law, regulation, rule, or policy. (Terminates on occurrence
10 of contingency--sec. 15, Ch. 571, L. 1999.)"

11
12 **Section 3.** Section 53-4-1009, MCA, is amended to read:

13 **"53-4-1009. (Temporary) Department to adopt rules -- review by interim committee.** (1) The
14 department of public health and human services shall adopt rules necessary for the administration of the
15 program, including rules governing the application process, termination, and confidentiality.

16 (2) The rules may include, as necessary:

17 (a) the amount, scope, and duration of specific services provided;

18 (b) criteria to ensure that the services provided are medically necessary and cost-effective;

19 (c) provisions for participant cost-sharing, including, at the department's discretion:

20 (i) the establishment of enrollment fees, premiums, deductibles, and copayments; and

21 (ii) the process for setting the amounts of enrollment fees, premiums, deductibles, and copayments,
22 taking into account a participant's family income and resources; ~~and~~

23 (d) the type of professionals who may deliver services or direct the delivery of services and the
24 qualifications required of those professionals; and

25 (e) minimum reserves for the program that must be established on an actuarially sound basis.

26 (3) In adopting rules, the department shall consider the federal requirements on which the receipt of
27 the federal share of program funds are contingent and may not include any provision that places that funding
28 at risk. Rules adopted by the department must, when appropriate, take into account the availability of
29 appropriated funds.

30 (4) Rules adopted by the department pursuant to 53-4-1004 and 53-4-1009 must be presented to and

1 reviewed by an appropriate interim committee that examines issues related to children and families. (Terminates
2 on occurrence of contingency--sec. 15, Ch. 571, L. 1999.)"

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4 **Section 4.** Section 53-4-1010, MCA, is amended to read:

5 **"53-4-1010. (Temporary) Sharing of information.** The department of public health and human
6 services, health care providers, ~~insurance companies~~, and other entities may share only health care information,
7 medical records, income, and other participant eligibility information for the purposes of administering the
8 program. The limitations on disclosure of information provided in 33-19-306 do not apply if they conflict with this
9 part. To the extent possible, the information may not be disclosed in a manner that would violate the privacy of
10 an individual or be released to any entity ~~that if disclosure~~ is not necessary for the administration of the program.
11 (Terminates on occurrence of contingency--sec. 15, Ch. 571, L. 1999.)"

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13 NEW SECTION. **Section 5. Reserve account.** (1) The department of public health and human
14 services may establish a reserve account in the state or federal special revenue fund. The account must be
15 used to establish reserves that allow the program to be administered on an actuarially sound basis. The reserve
16 account may be used to make payments to providers for costs that were not reasonably anticipated under the
17 program.

18 (2) The interest and income earned on the reserve account must be deposited in the reserve account.

19 (3) If the program is in existence, the balance in the reserve account may not be transferred to any other
20 account or program.

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22 NEW SECTION. **Section 6. Codification instruction.** [Section 5] is intended to be codified as an
23 integral part of Title 53, chapter 4, part 10, and the provisions of Title 53, chapter 4, part 10, apply to [section 5].

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25 NEW SECTION. **Section 7. Saving clause.** [This act] does not affect rights and duties that matured,
26 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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28 NEW SECTION. **Section 8. Effective date.** [This act] is effective July 1, 2005.

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30 NEW SECTION. **Section 9. Applicability.** [This act] applies to the children's health insurance program

1 after the expiration of the current contract for the administration of the program.

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3 **NEW SECTION. Section 10. Contingent termination.** (1) [This act] terminates on the date that the
4 director of the department of public health and human services certifies to the governor that the federal
5 government has terminated the program or that federal funding for the program has been discontinued.

6 (2) The governor shall transmit a copy of the certification to the code commissioner.

7 (3) Any excess funds remaining upon the termination of the program must be transferred to the general
8 fund.

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